

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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www.montgomerycountymd.gov/content/council/boa/board.asp

Case No. S-2694

PETITION OF GILBERTO ALEMAO

OPINION OF THE BOARD

(Opinion Adopted July 11, 2007)

(Effective Date of Opinion: August 16, 2007)

Case No. S-2694 is an application for a special exception for an accessory apartment, pursuant to Section 59-G-2.00 of the Zoning Ordinance. The Hearing Examiner for Montgomery County held a hearing on the application on May 14, 2006, closed the record in the case on May 21, 2007, and on May 29, 2007 issued a Report and Recommendation for approval of the special exception.

Decision of the Board: Special Exception **Granted** Subject
To Conditions Enumerated Below.

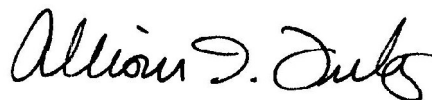
The subject property is Lot 27, Block A, Peach Orchard Heights located at 15317 Peach Orchard Road, Silver Spring, Maryland, 20905, in the R-200 Zone.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on July 11, 2007. After careful consideration and review of the record in the case, on a motion by Donna L. Barron, Vice-Chair, seconded by Wendell M. Holloway, with Caryn L. Hines, Catherine G. Titus and Allison Ishihara Fultz, Chair in agreement, the Board adopts the Report and Recommendation and **grants** the special exception subject to the following conditions:

1. The Petitioner shall be bound by all of his testimony, representations and exhibits of record identified in the Hearing Examiner's Report and Recommendation and in the Opinion of the Board.
2. The Petitioner shall comply with the determination of Lynn McCreary, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 14) that the accessory apartment may be occupied by no more than two persons.

3. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located.
4. Petitioner must not receive compensation for the occupancy of more than one dwelling unit. He must therefore no longer receive rent from his cousin or any other party living in his home, other than the accessory apartment tenants.
5. Petitioner shall not park or store construction equipment or large construction or landscaping vehicles on the subject site, nor allow any nonresidential activities on his property except as permitted by special exception, because such nonresidential activities can have an adverse impact on neighboring properties.
6. Petitioner must make available at least two parking spaces on his driveway for the accessory apartment tenant. Petitioner must include, in his lease agreement with any accessory apartment tenants, a provision that limits the accessory apartment tenant or tenants to no more than a total of two vehicles. The accessory apartment tenant may not park any commercial vehicles on the subject site.
7. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
This 16th day of August, 2007.

Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.